

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION - SIOUX CITY**

PEG BOUAPHAKEO, et al., )

Plaintiffs, )

v. ) Civil No. 5:07-cv-04009-JAJ-TJS

TYSON FOODS, INC. )

Defendant. )

**PLAINTIFFS' MOTION *IN LIMINE* TO EXCLUDE  
EVIDENCE OF PAID BREAK PERIODS**

Come the plaintiffs, who move *in limine* for entry of an Order excluding evidence or argument about paid break periods that are not part of the claims or defense in the case. As grounds, plaintiffs state the following:

1. Plaintiffs make no claim in this case related to paid breaks.
2. The defendant asserts no defense or set-off in this case based on paid breaks.
3. Paid breaks are completely irrelevant to the claims and defenses in this case and have the potential of confusing the jury about the unpaid breaks and other parts of the workday that are at issue.

WHEREFORE, plaintiffs move *in limine* for entry of an Order excluding any

evidence or argument about paid break periods.

Respectfully submitted,

Brian P. McCafferty  
Kenney & McCafferty  
3031 C Walton Road, Suite 202  
Plymouth Meeting, P A 19462  
(610) 940-0327  
(610) 940-0284 (facsimile)

/s/ Robert L. Wiggins, Jr.  
Robert L. Wiggins  
Candis A. McGowan  
Jacob A. Kiser  
WIGGINS, CHILDS, QUINN  
& PANTAZIS, L.L.C.  
The Kress Building  
301 19<sup>th</sup> Street North  
Birmingham, Alabama 35203  
(205) 314-0500  
(205) 254-1500 (facsimile)

Michael Hamilton  
Provost Umphrey Law Firm, LLP  
2021 Richard Jones Road, Suite 300  
Nashville, TN 37215  
(615) 242-0199  
(615) 256-5922 (facsimile)

Roger K. Doolittle  
460 Briarwood Drive, Suite 500  
Jackson, MS 39206  
(601) 957-9777  
(601) 957-9779 (facsimile)

Attorneys For Plaintiffs

## **CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing on counsel via electronic mail delivery of same, properly addressed, to the following:

Allison Dana Balus  
Baird Holm, LLP  
1500 Woodmen Tower  
Omaha, NE 68102

David J. Kramer  
Baird Holm LLP  
1500 Woodmen Tower  
Omaha, NE 68102

Evangeline C. Paschal  
Hunton & Williams, LLP  
2200 Pennsylvania Ave., N.W.,  
Washington, DC 20037

Michael J. Mueller  
Hunton & Williams LLP  
2200 Pennsylvania Ave N.W.  
Washington, DC 20037

Steven D. Davidson  
Baird Holm McEachen Pedersen  
Hamann & Strasheim  
1500 Woodmen Tower  
Omaha, NE 68102

Richard J. Sapp  
Ryan Koopmans  
Frank B. Harty  
Nyemaster, Goode,  
Hansell & O'brien, P.C.  
700 Walnut Street, Suite 1600  
Des Moines, IA 50309-3899

This 1<sup>st</sup> day of July, 2011.

/s/ Robert L. Wiggins, Jr.